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Irvine, CA 92612-4412 Telephone: 949.451.3800 jtthomas@gibsondunn.com bevanson@gibsondunn.com jorman@gibsondunn.com jorman@gibsondunn.com Telephone: 702.667.4843 wwa@h2law.com Tele		JOSEPH A. GORMAN (pro hac vice) CASEY J. MCCRACKEN (pro hac vice)	Las Vegas, NV 89169 Telephone: 336.908.6961
jtthomas@gibsondunn.com bevanson@gibsondunn.com jgorman@gibsondunn.com cmccracken@gibsondunn.com GIBSON, DUNN & CRUTCHER LLP SAMUEL LIVERSIDGE (pro hac vice) ERIC D. VANDEVELDE (pro hac vice) 333 South Grand Avenue Los Angeles, CA 90071-3197 Telephone: 213.229.7000 sliversidge@gibsondunn.com tunited Strates DISTRICT COURT DISTRICT OF NEVADA ORACLE USA, INC., et al., Plaintiffs, V. RIMINI STREET, INC., et al., Defendants. W. WEST ALLEN (Nevada Bar No. 5 3800 Howard Hughes Parkway, Suite Las Vegas, NV 89169 Telephone: 702.667.4843 wwa@h2law.com Vwa@h2law.com Case No. 2:10-cv-00106-LRH-VC RIMINI'S EMERGENCY MOT UNDER LOCAL RULE 7-4 TO STRIKE ORACLE'S IMPROPI EXPERT REPORT SUPPLEMI		Irvine, CA 92612-4412	, ,
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11 GIBSON, DUNN & CRUTCHER LLP SAMUEL LIVERSIDGE (pro hac vice) 12 ERIC D. VANDEVELDE (pro hac vice) 13 33 South Grand Avenue 14 Los Angeles, CA 90071-3197 Telephone: 213.229.7000 15 Attorneys for Defendant 16 Rimini Street, Inc. 17 UNITED STATES DISTRICT COURT 18 DISTRICT OF NEVADA 19 ORACLE USA, INC., et al., 20 Plaintiffs, 21 v. Plaintiffs, 21 v. RIMINI STREET, INC., et al., 22 RIMINI STREET, INC., et al., 23 Defendants. 24 Defendants.	10		Telephone: 702.667.4843
ERIC D. VANDEVELDE (pro hac vice) 333 South Grand Avenue Los Angeles, CA 90071-3197 Telephone: 213.229.7000 sliversidge@gibsondunn.com evandevelde@gibsondunn.com Attorneys for Defendant Rimini Street, Inc. UNITED STATES DISTRICT COURT DISTRICT OF NEVADA ORACLE USA, INC., et al., Plaintiffs, v. Plaintiffs, v. RIMINI STREET, INC., et al., Defendants. Defendants. Defendants.	11		
Telephone: 213.229.7000 sliversidge@gibsondunn.com evandevelde@gibsondunn.com Attorneys for Defendant Rimini Street, Inc. UNITED STATES DISTRICT COURT DISTRICT OF NEVADA ORACLE USA, INC., et al., Plaintiffs, v. RIMINI STREET, INC., et al., Defendants. Defendants. Telephone: 213.229.7000 sliversidge@gibsondunn.com evandevelde@gibsondunn.com Attorneys for Defendant Case No. 2:10-cv-00106-LRH-VC DECLARATION OF CASEY J. MCCRACKEN IN SUPPORT OR RIMINI'S EMERGENCY MOT UNDER LOCAL RULE 7-4 TO STRIKE ORACLE'S IMPROPI EXPERT REPORT SUPPLEMI EXPERT REPORT SUPPLEMI	12	ERIC D. VANDEVELDE (pro hac vice)	
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I, Casey J. McCracken, declare as follows:

- 1. I am an associate in the law firm of Gibson, Dunn & Crutcher LLP, and I am one of the attorneys representing Rimini Street, Inc. in the above-captioned case. I submit this declaration pursuant to Local Rule 7-4 in support of Rimini's Emergency Motion to Strike Oracle's Improper Expert Report Supplement. The facts stated in this declaration are based on my personal knowledge, and if called upon as a witness, I would and could testify competently to them.
- 2. Rimini's motion is justifiably brought as an emergency motion under Local Rule 7-4 under the circumstances.
- 3. The parties are currently only 28 days away from a six-day evidentiary hearing on the Court's order to show cause which is set to address a discrete set of instances of violations or potential violations of the permanent injunction in this case. See ECF No. 1459 at 35. The hearing is set for September 20, 2021. Rimini and its counsel are devoting substantial resources in terms of time and energy preparing for the hearing, as evidenced by the extensive proposed pre-hearing order the parties submitted on Friday, August 20, 2021. See ECF No. 1484.
- 4. Discovery precipitating the Court's order to show cause was extensive. See ECF No. 1459 at 5. Magistrate Judge Ferenbach ordered that all expert discovery, including depositions, be finished by June 30, 2020 (ECF No. 1354), that all discovery "[d]eadlines [be] strictly enforced," and that any party would require leave of Court to engage in any further discovery (ECF No. 1232 at 2).
- 5. After reviewing Oracle's proposed exhibit list for the hearing, and as part of the negotiations in drafting the proposed pre-hearing order, Rimini's counsel communicated to Oracle that it would be improper for its expert, Ms. Frederiksen-Cross, to offer opinions at the hearing on documents she did not cite or discuss in her reports. On Thursday, August 19, Rimini's counsel stated to Oracle in writing that "a large number of the exhibits on Oracle's exhibit list were not opined on by Ms. Frederiksen-Cross nor cited in her reports" and that, accordingly, "Rimini intends to object to any attempt by Ms. Frederiksen-Cross to give new opinions regarding these documents." ECF No. 1484 at 61.

- 6. The next day, at approximately 2:17 PM PT, hours before the pre-hearing order was due for filing at midnight, counsel for Oracle served on counsel for Rimini the Supplement to Post-Injunction Expert Reports of Barbara Ann Frederiksen-Cross, which attached hundreds of exhibits that Ms. Frederiksen-Cross has never relied on, cited, opined on, or discussed previously. Her report refers to these as "additional documents."
 - 7. A true and correct copy of the Supplement is attached as Exhibit 1.
- 8. That same day, we informed Oracle that the supplement was improper and prejudicial, and that "Rimini intends to file a motion to strike the eleventh-hour report." ECF No. 1484 at 14.
- 9. On Saturday, August 21, 2021, Rimini's counsel further communicated Rimini's intention to file a motion to strike the supplement and requested that the parties meet and confer on the matter on Monday, August, 23, 2021.
- 10. I certify that we met and conferred with counsel for Oracle in good faith on August 23, 2021 in an attempt to resolve the dispute, but the parties were unable to resolve the dispute without Court action.
- 11. Emergency resolution of this Motion is necessary given the extremely short time left before the evidentiary hearing. The ordinary briefing schedule for motions, which lasts a total of 21 days (*see* Local Rule 7-2) would not permit resolution with sufficient time for Rimini to adequately prepare for the hearing.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I executed this declaration on August 23, 2021, at Irvine, California.

Casey J. McCracken